IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE ELIPE DHARMA RAO

W.P. No. 18826 OF 2005

Dated : August 24, 2005

Between:

Smt. Jaya V. Harihar Rao and six others

Petitioners

AND

The Commissioner,

Municipal Corporation of Hyderabad,

Lower Tank Bund,

Hyderabad.

Respondent

THE HONOURBALE SRI JUSTICE ELIPE DHARMA RAO

W.P. No. 18826 OF 2005

ORAL ORDER:

Aggrieved of the notice Lr. No.321/CSC/TP3/2004-2005 dated 11.8.205 issued by the respondent, purported to have been issued under Sec.636 of the Hyderabad Municipal Corporation Act, 1955, directing the petitioners to removes the deviations made against the sanctioned plan within three days from the date of receipt of the notice, otherwise, the respondent would be constrained to demolish/ remove the said deviations and the expenses incurred thereon shall be recovered from the petitioner, the present writ petition is filed.

The case of the petitioners is that they are in continuous possession and enjoyment of the schedule property. While so, with a view to develop the property, entered into agreement dated 25.4.2003 with M/s. Krishnateja Constructions, who made application to the respondent for construction of ground + three uupper floors, which was granted by the respondent vide permit No. 87/36 dated 23.11.2004. After obtaining such permission, the petitioners started construction. While so, on 1.12.2004, the respondent with the demolition squad visited the site and threatened the petitioners to stop excavation of soil over the schedule property and tried to lift over the equipment. Therefore, the petitioners filed OS No. 7353 of 2004 on the file of X Junior Civil Judge for perpetual injunction. Along with the suit, they filed IA No. 1998 of 2004 for ad-interim injunction which was granted on 7.11.2004 and made absolute on 15.6.2005. It is averred that all of a sudden, the respondent Corporation has served notice dated 29.7.2005 under Sec. 452 of the Act alleging that the petitioners have constructed in deviation of the sanctioned plan, to which the petitioners submitted reply dated 12.8.2005, requested the officials of the respondent to visit the premises in their presence. But the respondent without either rejecting or accepting the same, issued impugned notice.

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent.

It is submitted by the learned counsel for the petitioners that the

officials of the respondent without visiting the building has issued the impugned notice and therefore, seeks for a direction to the respondent to visit the building and if the respondent finds any deviation, he has no objection to pull down the same.

Considering the above said representation by the counsel for the petitioners, I deem it appropriate to direct the respondent to conduct inspection with regard to the deviations pointed out in the notice under Sec. 452 of the Hyderabad Municipal Corporation Act, 1955 dated 29.7.2005 and take steps in accordance with law thereafter. Till such time, the respondent is directed not to take any coercive steps in terms of the notice impugned herein.

With these directions, the writ petition stands disposed of at the stage of admission. No order as to costs.

Elipe Dharma Rao, J.

August 24, 2005

MAS.